

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**DISABILITY RIGHTS OREGON,  
METROPOLITAN PUBLIC DEFENDER  
SERVICES, INC., & A.J. MADISON,**  
Plaintiffs,

v.

**PAT ALLEN**, in his official capacity as head of  
the Oregon Health Authority, & **DOLORES  
MATTEUCCI**, in her official capacity as  
Superintendent of the Oregon State Hospital,  
Defendants.

Case No.: 3:02-cv-00339-MO

DECLARATION OF TOM STENSON  
IN SUPPORT OF PLAINTIFFS' REPLY  
TO DEFENDANTS' RESPONSE TO  
MOTIONS FOR CONTEMPT

I, Tom Stenson, declare as follows:

1. I am over the age of eighteen, have personal knowledge of the matters contained herein, and am competent to testify thereto.
2. I am the Deputy Legal Director at Disability Rights Oregon, the designated Protection and Advocacy system for Oregon.
3. I have worked at Disability Rights Oregon for four years and nine months.
4. Disability Rights Oregon provides protection and advocacy services to Oregonians with disabilities pursuant to the Developmental Disabilities Assistance and Bill of Rights ("DD") Act, 42 U.S.C. § 15041, *et seq.*, the Protection and Advocacy for Individuals with Mental Illnesses ("PAIMI") Act, 42 U.S.C. § 10801, *et seq.*, the Protection and Advocacy for Individual Rights ("PAIR") Act, 29 U.S.C. § 794e, and the regulations promulgated thereto, and ORS 192.517.

5. Wherever an internet address is included below, I searched for and recovered those exhibits as records from websites operated by the Oregon Health Authority and the Oregon Legislature. They are public records, as well as utterances of the defendants, their predecessors, their agents and employees, or members of state government acting in concert with them and relying on information provided by them.

6. Attached as Exhibit A is a true and accurate copy of the Oregon Performance Plan. Or. Health Auth., OREGON'S PERFORMANCE PLAN FOR MENTAL HEALTH SERVICES FOR ADULTS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS (2016), *available at* <https://www.oregon.gov/oha/HSD/BHP/Oregon%20Performance%20Plan/Oregon-Performance-Plan.pdf> (accessed May 28, 2019).

7. Attached as Exhibit B is a true and accurate excerpt of the 2015 Oregon Health Authority legislative presentation on the rise in the population of aid-and-assist patients. Or. Health Auth., ADDICTIONS AND MENTAL HEALTH: OREGON STATE HOSPITAL, 2015-2017 GOVERNOR'S BUDGET PHASE II, Slides 1-6 (2015), *available at* <https://www.oregon.gov/oha/Budget2015/OSH%20WM%20follow-up%20Phase%20%20presentation%20for%204-14-2015.pdf> (accessed May 28, 2019).

8. Attached as Exhibit C is a true and accurate excerpt from the Oregon Health Authority Rebalance Report from the Oregon Legislature. Legislative Fiscal Office, Or. Legislature, REBALANCE REPORT FOR THE OREGON HEALTH AUTHORITY ON ITS 2015-2017 BIENNIUM FINANCIAL STATUS, 1-6 (2016), *available at* <https://olis.leg.state.or.us/liz/2015I1/Downloads/CommitteeMeetingDocument/82231> (accessed May 28, 2019).

9. Attached as Exhibit D is a true and accurate excerpt of the 2017 Legislatively Adopted Budget Report regarding the Oregon State Hospital. Legislative Fiscal Office, Or. Legislature, 2017-19 LEGISLATIVELY ADOPTED BUDGET DETAILED ANALYSIS, Cover & 80-85, *available at* <https://www.oregonlegislature.gov/lfo/Documents/2017-19%20LAB%20Detailed%20Analysis.pdf> (accessed May 28, 2019).

10. Attached as Exhibit E is a true and accurate copy of the 2018 Oregon Health Authority Emergency Board Request, noting a continuing increase in aid-and-assist patients. Legislative Fiscal Office, Or. Legislature, 2018 EMERGENCY BOARD ANALYSIS OF OHA REQUEST, *available at* <https://olis.leg.state.or.us/liz/2017I1/Downloads/CommitteeMeetingDocument/152773> (accessed May 28, 2019)

11. Attached as Exhibit F is a true and accurate excerpt of the January 2019 Narrative Report on Progress on the Oregon Performance Plan. Or. Health Auth., OREGON PERFORMANCE PLAN: SEMI-ANNUAL NARRATIVE REPORT (Jan. 2019), 1-22, *available at* <https://www.oregon.gov/oha/HSD/BHP/Oregon%20Performance%20Plan/January%202019-Narrative-Report-with-Data-Report.pdf> (accessed May 28, 2019).

12. Attached as Exhibit G is a redacted copy of Oregon State Hospital's May 20, 2019 370 waitlist. Other than the redactions for name and date of birth, and removal of extraneous information, it is a true and accurate copy of an attachment delivered via email on May 20, 2019 to DRO staff from Oregon State Hospital staff.

13. Attached as Exhibit H is a true and correct copy of the Oregon State Hospital's 2014 Presentation to the Legislature Regarding Aid and Assist. Or. State Hosp., Aid and Assist Presentation, *available at*

<https://olis.leg.state.or.us/liz/2013I1/Downloads/CommitteeMeetingDocument/31877> (accessed May 28, 2019).

14. Attached as Exhibit I is a true and correct excerpt of the March 2019 Oregon State Hospital presentation to the Oregon Legislature. Oregon Health Authority, PRESENTATION TO JOINT WAYS AND MEANS SUBCOMMITTEE REGARDING THE OREGON STATE HOSPITAL, March 12, 2019, Slides 1, 5, and 25-32, *available at* <https://www.oregon.gov/oha/Budget/OHA-2019-WM-Presentation-OSH.pdf> (accessed May 28, 2019).

15. Attached as Exhibit J is a true and correct excerpt of the Behavioral Health portion of the 2019-21 Oregon Health Authority Agency Budget Request. Oregon Health Authority, 2019-21 Agency Budget Request, *available at* <https://www.oregon.gov/oha/Budget/OHA-2019-21-Agency-Request-Budget.pdf> (accessed May 28, 2019).

16. Attached as Exhibit K is a true and correct excerpt of the Community Mental Health Trust portion of the 2019-21 Oregon Health Authority Agency Budget Request. Oregon Health Authority, 2019-21 Agency Budget Request, *available at* <https://www.oregon.gov/oha/Budget/OHA-2019-21-Agency-Request-Budget.pdf> (accessed May 28, 2019).

17. I reviewed the public records relating to the proceedings against R.T. discussed in the Declaration of Tami Long. On August 17, 2018, the state trial court ordered R.T. to be sent to the state hospital for evaluation. By September 18, he still had not been transported for evaluation “due to technical issues,” and the trial court converted the order under ORS 161.365 for an evaluation to an order for restoration under ORS 161.370. He was finally transported to the state hospital on September 26, 2018. I can produce the public records upon request.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

DATED this 28<sup>th</sup> day of May 2019 in Portland, Oregon.

/s/ Thomas Stenson  
Tom Stenson OSB # 152894  
Disability Rights Oregon